

December 18, 2009



MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
December 18, 2009

I. OPENING OF MEETING AT 11:05 A.M. AT 160 NORTH LASALLE STREET,
SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director (by telephone); Courtney O'Connell, Illinois Department of Central Management Services; Stephen Konya and Bridget Devlin (by telephone), Illinois Department of Commerce and Economic Opportunity; and Bob Hodge.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD NOVEMBER 20, 2009

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 20, 2009.



IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>No. of Exempt Positions</u>
Aging	157.....	9
Agriculture	440.....	17
Arts Council	20.....	2
Capitol Development Board	45.....	0
Central Management Services	1,463.....	116
Children and Family Services	3,084.....	48
Civil Service Commission	4.....	0
Commerce & Economic Opportunity	442.....	68
Commerce Commission	72.....	0
Corrections	11,448.....	106
Criminal Justice Authority	58.....	6
Deaf and Hard of Hearing Comm.	7.....	1
Developmental Disabilities Council	9.....	1
Emergency Management Agency	97.....	6
Employment Security.....	1,983.....	24
Environmental Protection Agency	955.....	17
Financial & Professional Regulation	504.....	41
Gaming Board.....	84.....	7
Guardianship and Advocacy	112.....	7
Healthcare and Family Services.....	2,352.....	25
Historic Preservation Agency	204.....	12
Human Rights Commission	14.....	2
Human Rights Department	146.....	10
Human Services	13,817.....	76
Insurance.....	228.....	9
Investment Board.....	3.....	2
Juvenile Justice	1,232.....	20
Labor.....	81.....	7
Labor Relations Board Educational	12.....	2
Labor Relations Board State	18.....	2
Law Enforcement Training & Standards Bd.....	17.....	2
Medical District Commission	2.....	0
Military Affairs	124.....	3
Natural Resources	1,349.....	24
Pollution Control Board.....	19.....	2
Prisoner Review Board	20.....	0
Property Tax Appeal Board	21.....	1
Public Health.....	1,117.....	44
Racing Board	3.....	0
Revenue	2,060.....	63
State Fire Marshal	142.....	12
State Police	1,370.....	5
State Police Merit Board.....	6.....	1
State Retirement Systems	82.....	2
Transportation.....	2,601.....	0
Veterans' Affairs.....	1,196.....	7
Workers' Compensation Commission	171.....	9
TOTALS	49,391.....	818



B. Governing Rule - Jurisdiction B Exemptions

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
 - 1. The Governor, or
 - 2. A departmental director or assistant director appointed by the Governor, or
 - 3. A board or commission appointed by the Governor, or
 - 4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
 - 5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
 - 6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
 - 7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.

- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
 - 1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
 - 2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board, or commission.
 - 3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

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C. Requests for 4d(3) Exemption and Proposed Rescissions

- Regarding Item C, Executive Director Daniel Stralka reported that the agency had withdrawn this request.
- Regarding Item D, Executive Director Stralka explained that this request is for the Bureau of Energy and Recycling, Energy and Economic Development Policy Advisor, a position that reports to the agency Director though it also has reporting responsibilities to the Deputy Director of the Bureau of Energy and Recycling. This position serves as the Sustainability Manager, having principal policy responsibility for establishing and maintaining interagency energy efficiencies. It possesses significant authority to speak on behalf of the Director in administering the upcoming expenditure of \$60,000,000 from the Energy Efficiency Portfolio over the next 2 years as well as other such programs. It is the only agency position dedicated full-time to state energy efficiency programs. Commission staff had concerns with overlapping responsibilities with the Deputy Director position as well as a 4d(3) exempt Assistant Deputy Director position. Stephen Konya, Chief of Staff for the agency, responded by noting that the requested position serves a key role managing the Illinois Green Governments Coordinating Council, a body established by the Green Governments Illinois Act. By statute, the Chair of this Council is the Lieutenant Governor. In the absence of a Lieutenant Governor, it is this requested position that is serving as Chair at the direction of the Governor’s Office. Mr. Konya described the activities of the Council including its authority to solicit and receive grants. The Commission expressed concern over how the requested position’s principal policy responsibilities in this regard may significantly diminish once a Lieutenant Governor is seated. It was the consensus of the Commission to grant this request for a period of 24 months. The agency representatives had no objection to this.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 5-0 TO GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION FOR 24 MONTHS (THROUGH DECEMBER 16, 2011):

The following 4d(3) exemption request was granted through December 16, 2011:

D. Illinois Department of Commerce and Economic Opportunity

Position Number	40070-42-70-000-10-01
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Energy & Recycling
Functional Title	Bureau of Energy & Recycling Energy & Economic Development Policy Advisor
Incumbent	Vacant
Supervisor	Director
Location	Cook County

December 18, 2009



V. CLASS SPECIFICATIONS

- None submitted.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 5-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

VI. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON, AND BY ROLL CALL VOTE THE MOTION ADOPTED 5-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

December 18, 2009



VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 N. LaSalle Street, Suite S-901, Chicago, Illinois at 11:28 a.m.

PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director (by telephone); and Bob Hodge.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code, however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	10/31/09	11/30/09	11/30/08
Aging	1	1	0
Agriculture	4	2	1
Central Management Services	1	1	2
Children and Family Services	11	10	5
Employment Security	6	3	7
Healthcare and Family Services	4	4	11
Historic Preservation	1	0	0
Human Services	1	1	1
Investment Board	0	0	1
Natural Resources	36	18	13
State Fire Marshal	1	0	0
State Police	0	0	1
State Retirement Systems	0	0	1
Transportation	11	10	6
Veteran's Affairs	0	0	11
Workers' Compensation Commission	0	0	6
Totals	77	50	66



IX. ON REMAND FROM CIRCUIT COURT

- **RULE VIOLATION**

RV-45-08 (2008 CH 47612)

Employee	Abasse Tall	Appeal Date	05/15/08
Agency	DCFS	Decision Date	10/28/08
Type	Rule Violation	ALJ	Andrew Barris
Allegations	Violation of Section 310.450 & 310.540 Pay Plan	Proposed Finding	Violation of Section 310.450 (b)(1); agency directed to allow employees to discuss evaluations with their immediate supervisors for future evaluations of covered employees.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT ALL OF THE ADMINISTRATIVE LAW JUDGE'S FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THE PROPOSED FINDING DATED OCTOBER 28, 2008. ON NOVEMBER 19, 2004, MR. TALL'S ACCEPTANCE OF A 4D(3) EXEMPT, POLICY-MAKING POSITION BECAME EFFECTIVE. AT THE TIME OF HIS DISCHARGE, MR. TALL HELD A 4D(3) EXEMPT POLICY-MAKING POSITION AT THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES (DCFS). AT ALL TIMES SINCE NOVEMBER 19, 2004, MR. TALL HELD A 4D(3) EXEMPT, POLICY-MAKING POSITION WITH THE STATE OF ILLINOIS. PURSUANT TO THE ILLINOIS PERSONNEL CODE, THE CIVIL SERVICE COMMISSION DOES NOT HAVE JURISDICTION OVER THE DISCHARGE OF A PERSON HOLDING A 4D(3) EXEMPT POSITION IN THAT 4D(3) POSITIONS ARE EXEMPT FROM JURISDICTION B OF THE PERSONNEL CODE. FOR THIS REASON, THE COMMISSION DOES NOT HAVE JURISDICTION OVER THE DISCHARGE OF MR. TALL. HOWEVER, IT IS HEREBY DETERMINED THAT MR. TALL PROVED BY A PREPONDERANCE OF THE EVIDENCE THAT DCFS VIOLATED SECTION 310.450(B)(1) FOR ITS FAILURE TO GIVE MR. TALL AN OPPORTUNITY TO DISCUSS HIS EVALUATION WITH A SUPERVISOR. SINCE MR. TALL WAS SUBSEQUENTLY DISCHARGED, DCFS IS DIRECTED TO CONFORM TO ALL OF THE REQUIREMENTS OF SECTION 310.450(B)(1) FOR ALL FUTURE EVALUATIONS BY ENSURING THAT IMMEDIATE SUPERVISORS DISCUSS EVALUATION RESULTS WITH COVERED EMPLOYEES.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

December 18, 2009



X. APPEALS DISPOSED OF WITHOUT DECISION ON THE MERITS

DISMISSED

DA-38-09

Employee	Melissa Martinez	Appeal Date	05/06/09
Agency	DVA	Decision Date	11/18/09
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Conduct unbecoming	Recommended Decision	Dismissed subject to Commission approval; withdrawn (settled).

DA-13-10

Employee	Tierra S. English	Appeal Date	10/20/09
Agency	DHS	Decision Date	12/10/09
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Unauthorized absences	Recommended Decision	Dismissed subject to Commission approval; settled.

DA-17-10

Employee	Natilie P. Myers	Appeal Date	11/05/09
Agency	DHS	Decision Date	12/08/09
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Conduct unbecoming, neglect of job duties, and excessive late time	Recommended Decision	Dismissed subject to Commission approval; default (no show at hearing).

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGES' RECOMMENDED DECISIONS TO DISMISS THE APPEALS OF MELISSA MARTINEZ, TIERRA ENGLISH, AND NATILIE MYERS.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

December 18, 2009



XI. REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO OPEN MEETINGS ACT

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 5-0 THAT AFTER REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO THE OPEN MEETINGS ACT, THE NEED FOR CONFIDENTIALITY STILL EXISTS AS TO ALL THOSE MINUTES.

XII. STAFF REPORT

Executive Director Daniel Stralka reported that:

- Drew Barris and Beckie Daniken attended the Attorney General's seminars in December addressing changes in the Freedom of Information Act and Open Meetings Act that are effective January 1, 2010, and
- Beckie Daniken attended the Green Government Symposium on December 11, 2009.

Executive Director Daniel Stralka advised the Commissioners on new Revolving Door prohibitions that take effect on January 1, 2010.

XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Friday, January 15, 2010 in the Commission's Chicago office.

XIV. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 11:32 A.M.